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FOR IMMEDIATE RELEASE

Supreme Court Decision a Win for People with Disabilities in Indiana

Ruling in favor of Indiana Protection and Advocacy Services allows access to peer review

INDIANAPOLIS - Indiana Protection and Advocacy Services (IPAS) retained the right to obtain peer review records and to sue a state agency in federal court to enforce its right to get records in a U.S. Supreme Court decision issued on April 25. In the decision, the Supreme Court declined to review a Seventh Circuit Court of Appeals ruling in the case of *Indiana Family and Social Services Administration v. Indiana Protection and Advocacy Service (No. 10-131)*.

“The Supreme Court declined to overturn the court of appeals’ ruling that so long as it accepts federal money, Indiana must turn over any records requested,” said Seth Galanter of Morrison & Foerster LLP, who represented IPAS in the Supreme Court. “We are hopeful that the state will comply with the ruling going forward and avoid any future needless litigation.”

This decision comes after nearly five years of legal action by IPAS. In 2006, IPAS opened an investigation into the death of a patient recently admitted to Larue Carter Memorial Hospital, a state-run facility for individuals with mental illness. A second patient at Carter also complained to IPAS that he had been abused. After Larue Carter Memorial Hospital refused to release investigative records, incident reports and the hospital’s peer review report to IPAS, the organization filed suit.

IPAS Legal Director Karen Davis calls the Supreme Court decision “a win for advocates of persons with disabilities and for the patients. Only with access to hospital records can we determine whether providers are addressing the needs of individuals in their care.”

In April 2010, the Seventh Circuit Court of Appeals found:

- (1) The 11th Amendment does not bar the plaintiff, IPAS, from seeking injunctive and declaratory relief against named state officials;
- (2) The Protection and Advocacy for Individuals with Mental Illness Act itself provides a cause of action for injunctive and declaratory relief to enforce the Act; and
- (3) The protection and advocacy agency is entitled to access to peer review records of treatment of individuals with mental illness.

About IPAS

Created by state law in 1977, IPAS protects and advocates for the rights of people with disabilities and is Indiana's federally designated Protection and Advocacy system and Client Assistance Program. IPAS is an independent state agency, receiving no state funding. It is independent from all service providers, as required by federal and state law. IPAS is governed by a 13-member commission, which sets the agency’s priorities, and is advised on mental-illness matters by a 10-member advisory council.